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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/892,902 07/14/97 WALLER

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EXAMINER

YAMNITZKY, M

ART UNIT

PAPER NUMBER

1774

29

DATE MAILED:

08/28/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/892,902

Applicant(s)
Clinton P. WALLER Jr. et al.

Examiner
M. Yamnitzky

Art Unit
1774



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three (3) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 18, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 10-14, 16, 18, 19, 21-35, and 37-43 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 5, 10-14, 16, 18, 19, 21, 23, 24, and 41-43 is/are allowed.
- 6) ☒ Claim(s) 22, 25-35, and 37-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 24, 28
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicants' submission filed on 06/18/01 has been entered. Applicants' Information Disclosure Statement, filed 03/12/01 after final rejection and without the statement under 37 CFR 1.97(e) that is required when filing an after final IDS, has also been considered by the examiner in light of the request for continued examination.

2. Claims 1, 5, 10-14, 16, 18, 19, 21-35 and 37-43 are pending.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Applicants should receive copies of signed forms PTO-1449 as attachments to this Office action showing that the examiner has considered, and made of record, the references disclosed by the Information Disclosure Statements filed 03/12/01 and 06/18/01 (Paper Nos. 24 and 28, respectively).

The Evans patent and the five foreign patent documents that have been crossed off the PTO-1449 received 06/18/01 are made of record via the PTO-1449 received 03/12/01. The Iqbal patent that has been crossed off the PTO-1449 received 06/18/01 is made of record via the PTO-

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1449 received 12/01/97 and considered by the examiner 02/25/99. The PTO-1449 received 12/01/97 incorrectly listed the patent number of the Iqbal patent as "5,398,723"; the examiner has now corrected the patent number on the earlier filed form to read --5,389,723--.

4. Claims 1, 5, 10-14, 16, 18, 19, 21, 23, 24 and 41-43 are allowed.
5. Claims 30, 37 and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for reasons of record in Paper No. 23.
6. Claim 37 is rejected under 35 U.S.C. 102(b) as being anticipated by Cousin et al. (4,554,181) for reasons of record in Paper No. 23.
7. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cousin et al. (4,554,181) for reasons of record in Paper No. 23.
8. Claims 37 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Malhotra et al. (5,500,668) as evidenced by Carreira et al. (5,220,346) for reasons of record in Paper No. 23.

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9. Claims 22, 25-29, 31-35, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malhotra et al. (5,500,668) in view of Carreira et al. (5,220,346) and Kojima et al. (5,677,067) for reasons of record in Paper No. 23.

10. Any inquiry concerning this communication should be directed to Marie R. Yamnitzky at telephone number (703) 308-4413. The examiner can generally be reached at this number from 6:45 a.m. to 3:15 p.m. Monday-Friday.

The current fax numbers for Art Unit 1774 are (703) 305-3599 for official after final faxes and (703) 305-5408 for all other official faxes. (Unofficial faxes for Art Unit 1774 can be sent to (703) 305-5436.)

MRY
08/27/01



MARIE YAMNITZKY
PRIMARY EXAMINER

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